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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/012,003	10/29/2001	Jeffrey Schulhoff		1696

7590  
Brent A. Capehart  
P.O. Box 4126  
Tulsa, OK 74159

01/28/2004

EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/012,003

Applicant(s)

SCHULHOFF ET AL.

Examiner

Necholus Ogden

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 16 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 16 and 19-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-7-2004 has been entered.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 29, states an "activation agent", which does not appear in the specification as originally filed.

### ***Claim Rejections - 35 USC § 102***

1. Claim 29 rejected under 35 U.S.C. 102(b) as being anticipated by Walzer (4,199,469).

Walzer discloses a composition and method for cleaning tanks for drinking water comprising an aqueous solution of ascorbic acid, citric abstract and examples 1-9). As this reference teaches all of the instantly required it is considered anticipatory.

2. Claims 1,16 and 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermeer et al (5,750,733).

Vermeer et al disclose a hard surface cleaning composition comprising an alkyl glycamide surfactant, peroxygen bleaching agents such as sodium peroxide (col. 21, lines 10-36); and optionally peracetic acid (col. 33, lines 25-37). Moreover, said composition may comprise additional component such as isopropanol solvents (col.35, lines 10-35).

Vermeer et al do not teach each of the claimed components in an examples, however, it would have been obvious, in the absence a showing to the contrary, to combine the components to specifically teach the claimed invention because each of the components are taught in their requisite proportions.

3. Claims 1, 16 and 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal, Jr.

O'Neal, Jr. disclose a cleaning solution for processing equipment comprising 0.0001 to about 1% by weight of a peracetic acid; 0.2 to 30% by weight of an organic acid in said solution; 0.001 to about 10% by weight of a surfactant in said solution; and 0.1 to about 30% by weight of a glycol ether in said cleaning solution (see Tables and claims 1-23).

O'Neal, Jr. lacks a specific example with each of the ingredients in the claimed amounts, however, O'Neal, Jr. teaches each of the claimed ingredients in their requisite proportions within the four corners of said reference, and one of ordinary skill in the art would have been motivated to combine the components to exemplify the claimed invention.

### ***Response to Arguments***

With respect to applicant's argument concerning the "activation" component not included in Walzer, it is the examiner's opinion that the activation components may encompass a plethora of components in the cleansing art. One of which, a polycarboxylic acid, is taught and required by Walzer.

In response to applicant's argument that Vermeer et al or O'Neal, Jr. have a different use for application, cleaning action or make up of compositions, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 703-308-3732. The examiner can normally be reached on Monday-Thursday.

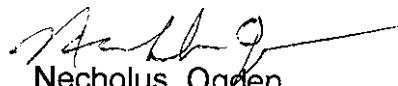
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 703-308-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Necholas Ogden  
Primary Examiner  
Art Unit 1751

No  
January 22, 2004